

EXHIBIT A

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FILED
Superior Court of California
County of Placer

OCT 24 2019

Jake Chatters
Executive Officer & Clerk
By: E. Kouvdos, Deputy

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF PLACER

10 UNLIMITED JURISDICTION

11 RUTH HILLIARD,

12 Plaintiff,

13 v.

14 HOME DEPOT U.S.A., INC., dba "The
15 Home Depot," and DOES 1 to 20, inclusive
16 and each of them,

17 Defendants.

CASE NO. **5CV0043918**

COMPLAINT FOR DAMAGES

1. Violation of Public Policy-Age Discrimination (Cal. Govt. Code §12940, *et seq.*);
2. Violation of Public Policy-Gender Discrimination (Cal. Govt. Code Sec. 12940 *et seq.*);
3. Violation of Public Policy-Retaliation in Violation of FEHA (Cal. Govt. Code § 12940 *et seq.*).

BY FAX

JURY TRIAL DEMANDED

18 Plaintiff RUTH HILLIARD (hereinafter referred to as "Plaintiff") complains
19 against Defendant HOME DEPOT U.S.A., INC., dba "The Home Depot," (hereinafter referred
20 to as "Home Depot") and DOES 1 through 20 (collectively referred to hereinafter as
21 "Defendants"), and each of them, and alleges as follows:

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24 Complaint for Damages

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INTRODUCTION

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2 1. Plaintiff is a woman who is more fifty-three years of age. She worked for Home
3 Depot for more than 29 years, but was abruptly terminated for being nine minutes tardy on
4 October 31, 2017. At the time of the events and circumstances alleged below, Plaintiff was
5 employed at Home Depot's Auburn, California store.

6 2. Plaintiff's work performance was excellent throughout her nearly thirty-year
7 career at Home Depot. Plaintiff began her employment at Home Depot in July 1988. Her talents
8 and excellent work efforts were immediately recognized by Home Depot peers and
9 management. Many of her yearly performance appraisals designated her as an outstanding
10 performer. Over the years at Home Depot, Plaintiff earned multiple promotions and increased
11 responsibilities based upon her excellent performance.

12 3. In mid to late 2017, Home Depot falsely, unfairly and improperly accused
13 Plaintiff of poor work performance following her complaints to Home Depot management,
14 including the store manager, Larry Snyder, about the disparate treatment that she and other older
15 women employees received at the Auburn Home Depot store. Having enough of Plaintiff's
16 disparate treatment complaints, Mr. Snyder terminated Plaintiff's employment on October 31,
17 2017 for allegedly being nine minutes tardy for work.

18 4. On information and belief, Plaintiff alleges that she was replaced by a younger
19 man at Home Depot. Plaintiff and other older women at Home Depot noticed that in the last
20 year of Plaintiff's employment, Plaintiff and other women were being targeted for unnecessary
21 discipline and unfair and disparate treatment compared to men. For example, Plaintiff and other
22 women received a number of write-ups for minor infractions that were overlooked by
23 management when male employees were caught engaging in the same alleged infractions, such
24 as being tardy for work.

PRELIMINARY ALLEGATIONS

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26 5. Defendant Home Depot is a Delaware corporation with offices and stores
27 throughout California, including Placer County. Based on information and belief, at all relevant
28 times, Home Depot employed over seventy thousand (70,000) individuals, including in Auburn,

1 California. At all times alleged in this Complaint, the alleged wrongdoing of Defendants and
2 each of them occurred in California. Except where otherwise alleged, Plaintiff performed her
3 duties for Defendant Home Depot in California, including in Placer County.

4 6. The true names and capacities of the defendants named herein as DOES 1
5 through 20, inclusive, whether individual, corporate, associate, or otherwise, is unknown to
6 Plaintiff, who therefore sues such DOE defendants by fictitious names pursuant to California
7 Code of Civil Procedure Sec. 474. Each DOE defendant is sued as an agent or employee of
8 every other defendant, acting within the course and scope of that relationship, with the
9 knowledge and consent of the other defendants, and each fictitiously named defendant is in
10 some matter responsible for the injuries and damages complained of herein. Plaintiff will amend
11 this Complaint to show such true names and capacities of the DOE defendants when they are
12 ascertained.

13 7. At all times relevant herein, each of the defendants was the agent, employee,
14 supervisor, servant, and/or joint venture participant of each of the remaining defendants and in
15 doing the things hereafter alleged, was acting within the course, scope, and authority of such
16 agency, employment and/or joint venture, and with the consent and permission of each of the
17 other defendants. All actions of each defendant alleged in the causes of action into which this
18 paragraph is incorporated by reference were ratified and approved by the officers or managing
19 agents of every other defendant.

20 GENERAL ALLEGATIONS

21 Discriminatory Conduct by Home Depot

22 8. Plaintiff is an older woman. While she worked at Home Depot, Plaintiff observed
23 that her male colleagues were treated with more respect than her female colleagues and were not
24 subjected to harassing comments and unnecessary discipline for minor infractions like herself
25 and her female colleagues. Plaintiff objected to the differential treatment by Home Depot
26 management, but no meaningful action was ever taken by Home Depot to remedy the disparate
27 treatment.

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FIRST CAUSE OF ACTION

(Cal. Gov. Code Sec. 12940, *et seq.*)

11. Plaintiff incorporates by reference paragraphs 1 through 10 above as though fully set forth herein.

12. At all times herein mentioned, it has been the public policy of the state of California that employers in California must abide by California's anti-discrimination laws as addressed in statutes and the California constitution. At all times herein mentioned, Government Code Secs. 12940(a) and 12941 (California's Fair Employment and Housing Act ["FEHA"]) were in full force and effect and were binding on Defendants. These sections require Defendant to refrain from discriminating against any employee over the age of forty (40), including Plaintiff.

13. As a person over the age of forty (40) Plaintiff is a member of a protected class for purposes of the FEHA.

14. At all times material hereto, Plaintiff was employed by Home Depot.

15. At all times material hereto, Plaintiff performed her job duties in a satisfactory manner. This is evidenced by the excellent ratings she received in her performance reviews.

1 praise of her professionalism and relevant job knowledge by Home Depot management, her
2 receipt of important assignments, her thorough and successful conduct and completion of
3 assignments, sales and service to Home Depot customers and clients, and her merit raises in pay
4 at Home Depot over her more than twenty-nine years of service to Home Depot.

5 16. Defendants, and each of them, willfully and maliciously discriminated against
6 Plaintiff on the basis of her age by (a) allowing a work environment to continue in which she was
7 adversely treated compared to younger employees; (b) subjecting Plaintiff to unnecessary
8 discipline not imposed on younger employees; (c) unfairly and improperly terminating her
9 employment while retaining the employment of younger employees who perpetrated the same
10 minor infractions that were asserted by Home Depot as alleged reasons justifying Plaintiff's
11 termination; and (d) replacing Plaintiff with a younger employee after terminating Plaintiff on
12 pretextual grounds. All of these alleged actions violated California's public policy as articulated
13 in the aforementioned state statutes.

14 17. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered
15 and continues to suffer substantial past and future losses in income, earnings, lost opportunities,
16 bonuses and benefits and has been damaged in her capacity for future earnings, all in an amount
17 to be proven at the time of trial.

18 18. As a further direct and proximate result of Defendants' conduct, Plaintiff has
19 suffered and will suffer emotional harm including, but not limited to, humiliation,
20 embarrassment, loss of reputation, and mental anguish, all in an amount to be proven at the time
21 of trial.

22 19. Defendants' discrimination against Plaintiff on the basis of age subjected her to
23 cruel and unjust hardship in conscious disregard of Plaintiff's rights. Defendants' actions, as
24 alleged in this cause of action, were done with malice, oppression, and fraud, and Plaintiff is
25 entitled to recovery of exemplary or punitive damages, all in an amount to be proven at the time
26 of trial.

27 WHEREFORE, Plaintiff prays for damages against each and every Defendant, as set
28 forth below.

SECOND CAUSE OF ACTION

Violation of Public Policy-Gender Discrimination (Cal. Gov. Code Sec. 12940, *et seq.*)

(Against Defendants Home Depot and DOES 1-20)

20. Plaintiff incorporates by reference paragraphs 1 through 19, inclusive, as though fully set forth herein.

21. At all times herein mentioned, it has been the public policy of the state of California that employers in California must abide by California's anti-discrimination laws as addressed in statutes and the California constitution. At all times herein mentioned, Government Code Secs. 12940, *et seq.* (California's Fair Employment and Housing Act ["FEHA"]) were in full force and effect and were binding on Defendants. These sections require Defendant to refrain from discriminating against any employee because of their gender, including Plaintiff.

22. As a female, Plaintiff is a member of a protected class for purposes of the FEHA.

23. At all times material hereto, Plaintiff was employed by Home Depot.

24. At all times material hereto, Plaintiff performed her job duties in a satisfactory manner. This is evidenced by the excellent ratings she received in her performance reviews, praise of her professionalism and relevant job knowledge by Home Depot management, her receipt of important assignments, her thorough and successful work, and her merit raises in pay at Home Depot.

25. Defendants, and each of them, willfully and maliciously discriminated against Plaintiff on the basis of gender by (a) allowing a work environment to continue in which she was adversely treated compared to male employees; (b) subjecting Plaintiff to unnecessary discipline not imposed on male employees; (c) unfairly and improperly terminating her employment while retaining the employment of male employees who perpetrated the same minor infractions that were asserted by Home Depot as alleged reasons justifying Plaintiff's termination; and (d) replacing Plaintiff with a male employee after termination Plaintiff on pretextual grounds. All of these alleged actions violated California's public policy as articulated in the aforementioned state statutes.

26. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered

1 and continues to suffer substantial past and future losses in income, earnings, lost opportunities,
2 bonuses and benefits and has been damaged in her capacity for future earnings, all in an amount
3 to be proven at the time of trial.

4 27. As a further direct and proximate result of Defendants' conduct, Plaintiff has
5 suffered and will suffer harm including, but not limited to, humiliation, embarrassment, loss of
6 reputation, and mental anguish, all in an amount to be proven at the time of trial.

7 28. Defendants' discrimination against Plaintiff on the basis of gender subjected her
8 to cruel and unjust hardship in conscious disregard of Plaintiff's rights. Defendants' actions, as
9 alleged in this cause of action, were done with malice, oppression, and fraud, and Plaintiff is
10 entitled to recovery of exemplary or punitive damages, in an amount to be proven at the time of
11 trial.

12 WHEREFORE, Plaintiff prays for damages against each and every Defendant, as set
13 forth below.

14 **THIRD CAUSE OF ACTION**

15 **Violation of Public Policy-Retaliation in Violation of FEHA (Cal. Gov. Code Sec. 12940(h))**
16 **(Against Defendants Home Depot and DOES 1-20)**

17 29. Plaintiff incorporates by reference paragraphs 1 through 28, inclusive, as though
18 fully set forth herein.

19 30. At all times herein mentioned, it has been the public policy of the state of
20 California that employers in California must abide by California's anti-discrimination laws as
21 addressed in statutes and the California constitution and must not retaliate against an employee
22 because the employee complains about discrimination in the workplace. At all times mentioned
23 herein, FEHA, Government Code sections 12940, *et seq.* were in full force and effect and
24 binding on Defendants. These statutes require Defendants to refrain from retaliating against any
25 employee for complaining of discrimination because she is over 40 years old or is female.

26 31. Defendants, and each of them, willfully and maliciously retaliated against
27 Plaintiff on the basis of her questioning and complaints about the disparate treatment that she and
28 other Home Depot employees received at Home Depot, particularly female and older employees.

1 32. As a direct and proximate result of Defendants' conduct, Plaintiff has and
2 continues to suffer substantial past and future losses in income, earnings, lost opportunities,
3 bonuses and benefits and has been damaged in her capacity for future earnings, all in an amount
4 to be proven at the time of trial.

5 33. As a further direct and proximate result of Defendants' conduct, Plaintiff has
6 suffered and will suffer harm including, but not limited to, humiliation, embarrassment, loss of
7 reputation, and mental anguish, all in an amount to be proven at the time of trial.

8 34. Defendants' discrimination against Plaintiff on the basis of gender subjected her
9 to cruel and unjust hardship in conscious disregard of Plaintiff's rights. Defendants' actions, as
10 alleged in this cause of action, were done with malice, oppression, and fraud, and Plaintiff is
11 entitled to recovery of exemplary or punitive damages, in an amount to be proven at the time of
12 trial.

13 WHEREFORE, Plaintiff prays for damages against each and every Defendant, as set
14 forth below.

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16 **PRAYER FOR RELIEF**
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18 Plaintiff prays for judgment against all Defendants, and each of them, on each and every
19 cause of action as follows:

- 20 A. For past and future general and special damages according to proof;
- 21 B. For past and future loss of earnings and earning capacity, according to proof;
- 22 C. For punitive damages according to proof;
- 23 D. For an accounting;
- 24 E. For costs of suit;
- 25 F. For prejudgment interest at the maximum legal rate on all sums awarded;
- 26 G. For attorneys' fees; and
- 27 H. For such other and further relief as the court deems just and proper.

1 Dated: October 23, 2019

LAW OFFICES OF THOMAS MARC LITTON

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3 By: 

4 Thomas Marc Litton
Attorneys for Plaintiff, Ruth Hilliard

5 **DEMAND FOR JURY TRIAL**

6 Plaintiffs hereby demand a trial by jury.

7 Dated: October 23, 2019

LAW OFFICES OF THOMAS MARC LITTON

8
9 By: 

10 Thomas Marc Litton
11 Attorneys for Plaintiff, Ruth Hilliard
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